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Paper No. 12

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AUG 27 2004

OFFICE OF PETITIONS

In re Application of :
Ibguy :
Application No. 10/002,888 :
Filed: January 30, 2002 :
Attorney Docket No. N/A :
**FOR: DEVICE FOR DISTRIBUTING
ANTIBACTERIAL SPRAY IN A HUMAN
SHOE**

DECISION GRANTING
PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed July 15, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to timely reply to the non-final Office action mailed December 18, 2002, which set an extendable period for reply of three (3) months. Having obtained no extensions of time under 37 CFR 1.136(a), this application became abandoned on March 19, 2003. A Notice of Abandonment was mailed on July 17, 2003.

Petitioner asserts that he did not receive the December 18, 2002 non-final Office action. In support of his argument, petitioner has submitted a statement from his regular USPS mail carrier, Howard Moskowitz, dated July 5, 2004. Mr. Moskowitz states that during December of 2002, when the December 18, 2002 non-final Office action was mailed, he was on vacation and that the substitute carrier who took his route did not deliver mail to the proper addresses in Mr. Ibguy's building. A complaint was lodged against the substitute carrier by several residents of Mr. Ibguy's building in the main post office of the east coast of the United States of America alleging mail was not delivered during December 2002.

Petitioner has carried his burden of establishing unavoidable delay. The petition is **GRANTED**.

The file is being forwarded to Technology Center 3700's technical support staff for processing the amendment filed with the instant petition. The examiner of record will consider the amendment in due course.

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Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6712.



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